

# EXHIBIT E

**Jeanne McEntyre**

---

**Subject:** FW: RE: Stipulation for Protective Order

From: Samantha Kumaran <samantha@timetricsrisk.com>  
Sent: Thursday, November 5, 2020 5:01 PM  
To: Ellen Tobin <etobin@westermanllp.com>  
Cc: Jeanne McEntyre <jmcentyre@westermanllp.com>  
Subject: RE: RE: Stipulation for Protective Order

External Sender

Ellen, Once again I do not appreciate your distortion of the facts and this has become an exceedingly unproductive exercise for me. I do not wish to engage in ongoing mistruths. It is clearly filed on the docket that I issued you a proposed set of dates for both notices of deficiencies and a meet and confer on October 21, 2020 and it was you that never confirmed or agreed to either of those dates. You also failed to confirm the dates for the depositions.

We already did have a meet and confer related to Bramante and Lothrop on October 28, 2020. I filed with the Court a proposed set of dates on October 30, 2020, and YOU have not confirmed your agreement to any of them. Therefore at this time, without a Court schedule, I am not going to go back and forth, with you on these dishonest emails.

You also clearly filed a written objection to the discovery notices to Bramante on the time period for discovery objecting to document requests before May 9, 2016. Please correct those objections if they are no longer valid.

Once the Court issues the schedule we can agree to the dates thereafter. I did speak to the NYLAG today and they have advised also, since you signed your name on the document objections objecting to produce documents before May 9, 2016 that needs to be corrected and resent or taken up with the Court to reduce unnecessary time wasting.

Kind regards,  
Samantha S. Kumaran  
President and CEO  
mailto:samantha@timetricsrisk.com  
Mobile: 646-221-4363 (Cell)  
Phone: 212 431 5098 (Office)

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----- Original Message -----

On Thursday, November 5, 2020 4:31 PM, Ellen Tobin <mailto:etobin@westermanllp.com> wrote:

I believe you are referring to objections in Defendants' responses to document requests to Dan Lothrop and Domenic Bramante, dated July 13, and July 31, 2020, respectively. You never sent "notices of deficiencies" with respect those responses, though you mentioned you planned to. Likewise you never scheduled a meet and confer regarding these responses (which I offered to do).

Defendants are entitled to assert objections to discovery on several grounds. Notwithstanding any objections defendants assert in forthcoming discovery responses, I have assured you repeatedly that defendants are not withholding documents on the basis of an objection there to what you characterize as the relevant time period. Therefore, there is nothing for you to dispute here and nothing to raise with the Court.

Please answer the original question I have been asking for a week – do you intend to produce discovery responses tomorrow? From your email below, it seems like you are saying you would like to wait for the Court to issue a schedule. If that is the case, fine – but please confirm that as I have been asked you this precise question many times and I have explained the reasons for needing to know.

From: Samantha Kumaran <mailto:samantha@timetricsrisk.com>

Sent: Thursday, November 05, 2020 2:06 PM

To: Ellen Tobin <mailto:etobin@westermanllp.com>

Cc: Jeanne McEntyre <mailto:jmcentyre@westermanllp.com>

Subject: RE: RE: Stipulation for Protective Order

External Sender

Ellen I am not fabricating a dispute. I am attaching the wording YOU used in your own "objections" to Domenic Bramante's initial requests. Object #3 states clearly "Defendant will not produce documents prior to May 9, 2016". Please do not impute I am fabricating anything when this document is with YOUR signature.

Please resend Mr. Bramante's document response then without the objection. Since I already received the objection in writing that "Defendant will not produce documents prior to May 9, 2016". There is already a clear dispute.

Please correct the response attached then to remove this objection. Until Mr. Bramante's responses are resolved and I would like to address these "objections" of time period YOU put in writing with the Court.

Also the Court has not ruled yet on the scheduling order. I suggest we set up a Court conference but first we need to address this objection YOU put in writing to not producing documents for Defendants prior to May 9, 2016. If you are retracting this - then please send an updated response. I am working from the information you provided with Your signature. I have attached the documents you sent stating "Defendants will not produce documents prior to May 9, 2016".

If that has changed, please update the document you already sent. Since the Court hasn't issued anything yet I will be sending a letter to the Court shortly - also referring to these objections you already put in writing and to get an agreement on the schedule. Since you have not updated Bramante's objections I am working from responses you sent to me.

Once the Court rules on the schedule and scope we can agree on the dates. Thanks.

Kind regards,  
Samantha S. Kumaran  
President and CEO  
mailto:samantha@timetricsrisk.com  
Mobile: 646-221-4363 (Cell)  
Phone: 212 431 5098 (Office)

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----- Original Message -----

On Thursday, November 5, 2020 1:52 PM, Ellen Tobin <mailto:etobin@westermanllp.com> wrote:

You asked for confirmation that defendants are producing responsive documents going back to March 2011. I have confirmed (several times now) that Defendants are doing so and are NOT withholding documents on the basis of relevant time period. I am telling you (as I have said repeatedly) the information you asked for and, in fact, I am giving you the answer you wanted to hear. I do not understand what further information you are looking for or why you are continuing to email about this, other than to fabricate a dispute where none exists.

From: Samantha Kumaran <mailto:samantha@timetricsrisk.com>  
Sent: Thursday, November 05, 2020 1:44 PM  
To: Ellen Tobin <mailto:etobin@westermanllp.com>; Jeanne McEntyre <mailto:jmcentyre@westermanllp.com>  
Subject: Fw: RE: Stipulation for Protective Order

External Sender



Ellen, Your email, ignored the one I sent at 11:20am regarding your objections. What do you mean "notwithstanding any objections". My question is specifically related to the objections.

I have received already this objection from you. Please confirm this is no longer an objection.

"Defendant objects to the Requests to the extent they seek documents from Defendant for the period prior to May 9, 2016.....Defendant objects to producing documents that pre-date May 9, 2016." That was in objection #3.

What I suggest is we seek a conference with the Court.

Kind regards,  
Samantha S. Kumaran  
President and CEO  
mailto:samantha@timetricsrisk.com  
Mobile: 646-221-4363 (Cell)  
Phone: 212 431 5098 (Office)

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----- Original Message -----

On Thursday, November 5, 2020 11:20 AM, Samantha Kumaran <mailto:samantha@timetricsrisk.com> wrote:

Ellen, You are not answering the very simple questions that I asked. I am not asking if you are producing "the occasional" document. I know you are going to produce the Timetrics NDA dated March 2011 or other isolated Contracts in 2012 (documents I already have).

My question to resolve discovery disputes and prevent frivolous exercises for both parties is related to your prior objections in writing to the Relevant Time Period.

Please confirm in writing -

1. There will be no further objections to the Relevant Time Period of this case. You objected to the Relevant Time Period in Domenic Bramante and also to the Court and in emails to me. Before we go through the exercise of producing

tomorrow, I seek confirmation in writing that you are no longer objecting that the Relevant Time Period is March 2011 to present date.

2. I have also been repeatedly asking if you have preserved the documents and communications (including those between myself and Defendants) and you have not answered.

In order to meet and confer and resolve the dates in good faith, I need an answer to these two questions we can decide about tomorrow as I am also not going to engage in frivolous work to meet a deadline where I have not received a good faith asimple answer to two questions. Your Bramante requests objected as follows

"Defendant objects to the Requests to the extent they seek documents from Defendant for the period prior to May 9, 2016.....Defendant objects to producing documents that pre-date May 9, 2016." That was in objection #3.  
"

Will you be raising that objection again? Please confirm in writing.

I would appreciate if you will give me a straight answer to the question. If you are planning to produce tomorrow a list of objections to the Relevant Time Period (in your objections) please advise in writing eitherway. I have a right to know this so I also do not engage in frivolous exercises. If we are in disagreement that's fine, but I need to know if you raised a legal position to the OCurt that you object to the Relevant Time Period. Please confirm that you have reversed that position.

I need your confirmation in writing and by today that there will be no further objection to the Relevant Time Period.

Kind regards,  
Samantha S. Kumaran  
President and CEO  
mailto:samantha@timetricsrisk.com  
Mobile: 646-221-4363 (Cell)  
Phone: 212 431 5098 (Office)

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----- Original Message -----

On Thursday, November 5, 2020 11:00 AM, Ellen Tobin <mailto:etobin@westermanllp.com> wrote:

I stated clearly and unambiguously that Defendants are producing documents going back to March 2011. I am proceeding on the assumption and understanding that we are exchanging the first set of written responses and responsive documents tomorrow. If my assumption and understanding is incorrect please let me now immediately, in light of the substantial time and resources that goes into preparing for a document production.

From: Samantha Kumaran <mailto:samantha@timetricsrisk.com>

Sent: Thursday, November 05, 2020 8:39 AM

To: Ellen Tobin <mailto:etobin@westermanllp.com>

Cc: Jeanne McEntyre <mailto:jmcentyre@westermanllp.com>

Subject: RE: Stipulation for Protective Order

External Sender

Ellen, Again your facts are not correct. I have already received objections from you that documents prior to May 2016 were not being produced and that you object to the relevant time period.

Are you now retracting your objections (Already provided to me and to the Court) that the Relevant Time Period or are we now in agreement that the Relevant Time Period is Mar 21, 2011 to present date?

Your letter to the Court also stated that you were objecting to the Relevant Time Period. Please confirm in writing that you are now in agreement that the Relevant Time Period for document production is Mar 21, 2011 or the earliest date of 2010 and there will be no further objections to Relevant Time Period?

Can you confirm please that you have not deleted the documents and have preserve all documents from myself to Defendants as requested in several emails.

Once we agree on the Relevant Time Period we can confirm tomorrow but if I am just going to get back boilerplate objections objection to the Relevant Time Period we should address that now, as I also am spending a lot of time on this

Also please confirm you have preserved all the information going back to Mar 21, 2011.? Thank you. I preserve my rights. If we are not in agreement, and you intend to continue to object to "Relevant Time Period" please advise. This is the position you made in the letter to the Court. I need confirmation in writing that there will be no objection to the Relevant Time Period in your responses so as to also reduce my unnecessary burden, time, expenses and work.

Kind regards,

Samantha S. Kumaran

President and CEO

mailto:samantha@timetricsrisk.com

Mobile: 646-221-4363 (Cell)

Phone: 212 431 5098 (Office)

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----- Original Message -----

On Thursday, November 5, 2020 8:25 AM, Ellen Tobin <mailto:etobin@westermanllp.com> wrote:

Good morning. To be clear – Defendants are producing documents going back to March 2011. There was no basis for you to assume otherwise.

Please answer the question that I have been asking for several days: Do you intend to produce the first set of written responses and responsive documents on Friday 11/6? As already explained, document productions require time and resources. I need to know if you are postponing the date for this exchange.

Thanks  
Ellen

From: Samantha Kumaran <mailto:samantha@timetricsrisk.com>  
Sent: Thursday, November 05, 2020 7:10 AM  
To: Ellen Tobin <mailto:etobin@westermanllp.com>  
Cc: Jeanne McEntyre <mailto:jmcentyre@westermanllp.com>  
Subject: RE: Stipulation for Protective Order

External Sender

Please confirm you are producing the emails and communications for the Relevant Period requested in the Discovery Requests from March 21, 2011 - Present. That was the Relevant Time Period requested. Otherwise any purported production will be futile.

I will under no circumstances and I made clear that discovery being cut short prior to the May 2016 is unacceptable. If you are not producing, then we should prepare for motion practice at the Court. As I also will not do all this excessive work if you are going to obstruct reasonable discovery.

I will also seek sanctions for not producing the emails and documents requested for the Relevant Time Period as we discussed this going back to August. The reasons 2010 came up, because I have been going back and found emails that far back.

Please be advised I will be moving for sanctions if you do not produce the Relevant Time Period to 2011 and any documents you intend to use at trial, which you have already disclosed go back to 2010.

Kind regards,



Samantha S. Kumaran  
President and CEO  
mailto:samantha@timetricsrisk.com  
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----- Original Message -----

On Wednesday, November 4, 2020 8:51 PM, Ellen Tobin <mailto:etobin@westermanllp.com> wrote:

Defendants seek the documents described in Defendants' First Request for Production of Documents (the "Document Requests"). Defendants are entitled to disclosure of the documents that plaintiffs contend are relevant to the parties' claims and defenses in this matter, as set forth in the Document Requests. Whether Defendants also have some or all of the documents has no bearing on this. I also note that the Document Requests have time limitations and do not seek documents going back to 2010. Further, there is not request for all emails between you and Defendants going back to 2010.

I repeatedly proposed to you ways to limit the scope of discovery (for example do a stage 1 / post-May 2016 production and then do a second, pre-May 2016 production to the extent required after the Court issues a decision on the motion to dismiss). You refused to even discuss such proposals.

Now it is 2 days before we are supposed to produce documents and you still have not confirmed whether you intend to do so on Friday (despite that I have been asking you for several days). Preparing documents for production is a multi-step process that takes time and resources. If you do not plan to produce written responses and documents on Friday, please let me know immediately so that I do not spend unnecessary time and resources getting ready for a production that will be postponed.

Ellen

From: Samantha Kumaran <mailto:samantha@timetricsrisk.com>  
Sent: Wednesday, November 04, 2020 8:22 PM

To: Ellen Tobin <mailto:etobin@westermanllp.com>  
Cc: Jeanne McEntyre <mailto:jmcentyre@westermanllp.com>  
Subject: RE: Stipulation for Protective Order

External Sender

The question I had was on whether you have retained the emails (and work product) between myself and defendants going back to 2010? I assume you are asking for them as you no longer have them.

Kind regards,  
Samantha S. Kumaran  
President and CEO  
mailto:samantha@timetricsrisk.com  
Mobile: 646-221-4363 (Cell)  
Phone: 212 431 5098 (Office)

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----- Original Message -----

On Wednesday, November 4, 2020 5:10 PM, Ellen Tobin <mailto:etobin@westermanllp.com> wrote:

It was in my calendar. But it's of no moment – I wrote to you a few times that I am good with exchanging on 11/6 – and I was just confirming with you regarding the date.

Are you confirming that we are exchanging on 11/6 or you are saying you are waiting for a call back from NYlag in that regard? I am NOT giving you a hard time – I am trying to understand the situation.

I am not sure what you are asking me about the emails and docs. You will see everything when we produce defendants' responsive documents.

From: Samantha Kumaran <mailto:samantha@timetricsrisk.com>  
Sent: Wednesday, November 04, 2020 4:58 PM  
To: Ellen Tobin <mailto:etobin@westermanllp.com>



Cc: Jeanne McEntyre <mailto:jmcentyre@westermanllp.com>

Subject: RE: Stipulation for Protective Order

External Sender

Could you send me where you had the date as 11/5? I dont see that anywhere,

Also can you please confirm you have all the emails and docs going back to 2010?

I have a call into NYlag am waiting to hear back

Kind regards,

Samantha S. Kumaran

President and CEO

mailto:samantha@timetricsrisk.com

Mobile: 646-221-4363 (Cell)

Phone: 212 431 5098 (Office)

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----- Original Message -----

On Wednesday, November 4, 2020 4:18 PM, Ellen Tobin <mailto:etobin@westermanllp.com> wrote:

Samantha,

I am following up again to confirm that we are exchanging the first set of written responses and responsive documents on Friday 11/6. (As previously explained, I had the date as 11/5 but saw in your letter to the Court that you had 11/6. As a result I am confirming the date is 11/6 and not 11/5).

Thanks,  
Ellen

From: Samantha Kumaran <mailto:samantha@timetricsrisk.com>

Sent: Tuesday, November 03, 2020 8:49 PM  
To: Ellen Tobin <mailto:etobin@westermanllp.com>  
Cc: Jeanne McEntyre <mailto:jmcentyre@westermanllp.com>  
Subject: RE: Stipulation for Protective Order

External Sender

OK. Let's talk tomorrow. I am trying to read through the Court Rules here on this as the Magistrate hasn't ruled on everything and I am new to this. But I am working on all the requests.

Hope you are enjoying the late night election!

Kind regards,  
Samantha S. Kumaran  
President and CEO  
mailto:samantha@timetricsrisk.com  
Mobile: 646-221-4363 (Cell)  
Phone: 212 431 5098 (Office)

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----- Original Message -----

On Tuesday, November 3, 2020 6:23 PM, Ellen Tobin <mailto:etobin@westermanllp.com> wrote:

Samantha,

Yes I will review and consider a proposed revised version that you send. Please send it as a blackline or using track changes against the existing Order.

Am I correct that we are planning to exchange the first set of written responses and responsive documents on Friday 11/6?

Thanks,  
Ellen



Ellen Tobin

,  
Esq.

Westerman Ball Ederer Miller Zucker & Sharfstein, LLP

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[73.5859168,17z/data=!3m1!4b1!4m5!3m4!1s0x89c27d953aa41e1b:0x6fa04a2db3502c61!8m2!3d40.7192271!4d-73.5837281](https://www.google.com/maps/place/1201+RXR+Plaza,+Uniondale,+NY+11553/@40.7192311,-73.5859168,17z/data=!3m1!4b1!4m5!3m4!1s0x89c27d953aa41e1b:0x6fa04a2db3502c61!8m2!3d40.7192271!4d-73.5837281)

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From: Samantha Kumaran <<mailto:samantha@timetricsrisk.com>>

Sent: Tuesday, November 03, 2020 4:10 PM

To: Ellen Tobin <<mailto:etobin@westermanllp.com>>

Subject: Stipulation for Protective Order

External Sender

Hi Ellen, To save time at the Court, would you be willing to look at a proposed revision to the PO to see if we can agree upon it. If so, I can propose the amendments and see if we can reach an agreement.

If you are insistent on the version issued - then feel free to disregard this request.

Hope all is well!

Kind regards,  
Samantha S. Kumaran  
President and CEO  
mailto:samantha@timetricsrisk.com  
Mobile: 646-221-4363 (Cell)  
Phone: 212 431 5098 (Office)

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